/155 cont./
312 the rotation by ikhs-s (explanation given at Lalla Aziza, where
423 this method has functioned for several years), or to an excess of
[613] litigations and privative claims, or even to the gigantism of the system.

/The following four paragraphs are in small type in the original source./ The second motive operated in 1949 in the village
[627] of Ad'erd'ur, which, in order to cut short a threatening dispute, distributed the water of the Tzemzgart. For the whole ensemble of the network of the Amerdul, a claim of this sort: it has not yet won. The order of the ancestors still holds good here.

The third motive results from the case of the a. Lh'sen.

These conquerors of one of the affluents of the middle valley have preserved a vitality which, by a nice correspondence, is also connected to the relative conservation of their soil, to the consistency of the timbering on the sides, and to the abundance of water. They have 14 séguias, beyond the one that Wanz'id', the highest of their villages, draws from a source peculiar to it. Despite the lengthwise stretch of this whole system, the basis for the
[613] distribution is not topographical. Being a matter of an important grouping, the ikhs-s here are grouped into two subgroups, ait Mençur and ait Ddaud, each of the two having each year, alternating with the other one, the privilege of starting. Within the two subgroups, it is the "sluice by sluice" system that functions. The lands of each of the two are entangled the whole length of the valley, from Buteghradin up to Tabratjut, to the confines of the a. Abdella. But this gentilitial system works only on the first four days of the week (starting from Sunday, a day reputed to be favorable in /156/ this taqbilt). The rest of the week, definite portions of the valley receive water: three of them are distinguished. Finally, the distant Tabratjut possesses, with other villages upstream, a special séguia, departing from the place called Ukhriben.

In sum, here there is a combination of the gentilitial system and of the system based on the continuity of several great soles /Fr. sole, in agriculture: expanse of arable land intended for a certain crop in the annual rotation/. The irrigation calendar, which one has tried to represent below, will give an idea of the complexity and at the same time the harmony of the system.

/261 cont./

627 171

/footnote 1 continued/ can exist for a very long time, or even rise again under the influence of archaizing conditions (cf. the role of the oath in the constitution and defense of the medieval manse). In the Roman procedure, the sacramentum in rem would also be, according to the original interpretation by H. Lévy-Bruhl, "Sur la laïcisation du droit à Rome /On the laicization of the law in Rome/," Revue internationale des Droits de l'Antiquité, 1951, pp. 83 sq., "a test to which one can presume that by reason of the redoubtable forces that it unleashes a party would lend himself only if he considers himself quite sure of his right..." But is this not again a rationalist interpretation?

627 173 And, on the other hand, the religious accent that the myth confers upon the oath indeed risks being only an explanatory addition, quite like the formality of the oath itself. What could count in the archaic stage that appears under there is undoubtedly the gesture of touching the chain which "hangs from the sky": it properly establishes communication with the sacred.

627 Another remarkable thing, it is not to a matter in litigation that the myth's preferences go. It is to a sort of settlement brought about by the parties themselves, and the essential of which resides in the efficacy of an attitude. Technique of sudden releasing, "golden" technique, technique of "the golden age": that is what the instinctive option, the nostalgia, still discernible under the Seksawa's procedural extremism and the passion for the judiciary joust, come to. Nevertheless this archaizing is also accompanied by a critical reflection. Such ambiguity is not surprising.

Be that as it may, to the course familiar to this study, and which consists in approaching the institution only by its most concrete holds, corresponds something in the very opinion of the subject: this primacy given to the techniques of direct settlement and a fortiori to the purest among them, that of settlement without debate.

1: Berque--366 Z-5 (ca.1950) 1955 MW11 Shluh MW11

/262/ The Rite of the Stone On the Boundary

423 578 Boundary disputes between riverains are all the more frequent here because the modicity of the parcels makes one utilize as separation of the lands only the "lane" of grass saved sparingly between two tillages, or even stones put likewise on the fallow land and whose dotted line symbolically marks the passage from one right to another. The agricultural ground of the villages is thus constituted by tiny patches, sometimes reduced to one or two squares of irrigation: by them, as has been seen, each family is represented in each of the toponymic quarters whose ensemble forms the ground. Any one of these parcels is therefore defined less by the topography than by its fitting in between four others. From one to another, no interruption. Only just a difference of vegetation due to inequality of manure. It is necessary to hold the stalks apart in order to see a small, raised stone, awuttu, base of an ideal line sectioning the quarter perpendicularly to its axis. Here then is a peasant society without actual limitation of the lands. One conjectures that such a stage defies judiciary law. 423 •627 578 The problems that it poses in fact are those of a criticism of legitimacy, based on the contestation of civil status rather than concrete problems of emplacement. The former are never even with the plane of litigation. This is because they are amenable, not to a procedural course, but, if I may venture to say it, to an immediate law.

A sacramental operation resolves them. An "oath," as one says, or rather a gesture explained by a formula. To whom is it administered? Here, naturally, there is no qualification as plaintiff or defendant (1),

1. Cf. H. Lévy-Bruhl, op. laud., p. 95: "There is neither plaintiff, nor defendant."

in spite of the influences released by the judiciary mores, and indirectly by a procedural automatism inspired by the cadis. Someone is summoned to justify the limit reached by his plowshare or his hoe. Unless it should be the claimant himself who offers to

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/262 cont./
support his allegations by a solemn procedure. "Accept mine or I will accept yours," rd'iyi nghd rd'igh-ak, he says to his partner.

Notice the atmosphere in which this verb rd'ɛ̂ plunges, the root of which, Arabic, but adopted by all the Moroccan dialects, evokes in fact relations anterior to or superior to the strict law. It is in this way that in the sherifian chancellery a superlative of this root, ard'ɛ̂, qualifies the "faithful and beloved" vassal. A litigant adopts heartily, rd'ɛ̂, the sentence, or else accepts a /263/ witness, unless this should be the opposite. The ar. /Arabic/ Mâ rd'ɛ̂-ch expresses the menacing despair into which iniquity plunges a person, driving him to a serious act: vengeance, malediction, suicide. As always in such cases, with rare outcroppings of a strongly archaic juridical lexicon, it is not so much an act that the word connotes as an attitude, a state. Corroded reminder of a stage when social relations were expressed as relations of "figure," of "personage," or, let us say, of status.

[152] [154] [162]

That undoubtedly accounts for the obscurity in which this agrarian ceremony plunges even now. Obscurity not only to our eyes, but also to the very ones of the actors. The devolution of the oath to one of the two adversaries is not regulated by anything expressible, in any case nothing that would be apt to be confessed by the present users. Doubtlessly it operates by virtue of emotions to which the tone of the words exchanged, the vigor of the cry of the one offended, the latent opinion of the riverains who flock together on the field contribute.

One of the two, then, proclaims that he is indeed at such-and-such a place in his rightful patrimony, aida-n-s. Simultaneously, he places on the contested spot a stone or clod dug from the field (1).

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1. We observed this practice nearly everywhere in Morocco. Always this unity of the ethnographic foundation!

A certain ambiguity of the interpretation may appear here according to the material of the instrument. The stone in the case at

/263 cont./

423 627 578 hand is also the landmark. The clod appears as a projection of the field. Both may be considered as conveying the forces that, by his gesture and his formula, the individual has in some way fixed upon himself. This genre of interpretation comes very easily to mind and cannot be seriously contested, whatever reservations the excesses of the method in Maghrebi ethnology may have inspired. Naturally, the local explanation is religious and elaborated. It comes back to the meaning, affirmed or not: "... that this stone should lie heavy upon me the day of the last judgment." Whether or not that is a matter of a reinterpretation, the thing is evident. The liaison of the stone with the idea of boundaries is a general theme (2).

[114]

2. Cf. A. Magdelain, Essai sur les origines de la sponsio /Essay on the origins of the sponsion/, 1943, p. 164, which indeed makes evident the importance of "sworn law" as an archaic stage, and p. 15 on the liaison of Jupiter Terminus with a stone in the procedure of the foedus /league between states, compact between individuals/.

The value of the pebble, as representing the person (3).

[114]

3. Hanoteau and Letourneux, La Kabylie et les coutumes kabyles /Kabylia and Kabyle customs/, 1873, t. II, p. 8, n. 1, mention, without lingering on it, a remarkable rite of apposition of a stone by each tribe in an important deliberation.

also appears here readily in the /264/ plural oaths: the first of the coswearers alone pronounces the formula; the others validly limit themselves to depositing small pebbles, tizratin, on the place of the rite after him. And the practices of expulsion of fatigue or of sickness which consist of the deposit of a stone have been

/264 cont./

423 pointed out in the Maghreb for a long time. In all this there is
627 an ensemble of closely related ideas which surrounds by its total
578 context our oath of boundaries. I might add that this last is of
[171] absolutely universal usage in Morocco, "Arab countries" included, and that it seems to have the characteristics of the most ancient institutional base.

423 On this level, we are fully in the atmosphere of "sworn law."
627 The "oath" acts naturally here as a very ancient mode of creation of the law. It is it that preserves the veritable ordered dustiness that, in the ancient equilibrium of the grounds, the infinite multiplicity of the patrimonial representation typifies. That is indeed a remarkable thing, and one that can give an idea of the most archaic bases of this agrarian life.

Other Juridical Gestures

000 The Seksawa system further knows a certain number of courses expressing the same genre of attitudes with decisive value.

586 A repudiated wife does not accept the marriage settlement
691 and the acquests that the husband has handed over to her. She makes a bundle of them and, in spite of the resistance of the chorus, justly disturbed, she "projects" it "to the heart of the jemâa." Consequently she is considered free of the consequences which the apprehension of the objects would have implied for her and which would have meant replevin for her. Quite the contrary, she henceforth poses as claimant, as suppliant. The jemâa feels obliged to intervene for her. As most often happens in similar cases, it is in a reconciliation -- that is, in juridical language, in a transaction -- that the scandal will end. The frequency of
691 this genre of denouements in the oldest atmosphere of the Maghrebi law, and this was on the occasion of litigations brought before the cadi, has struck all the observers. Paradox, one might think, in a society so contentious! But it is more instructive to see here the victorious rise of an old juridical base running through the modern proceedings. There would be the key to this procedural anomaly.

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627 In the very widespread formula of the resolutory sales, improperly called rrahn, or, in the acts, thunyɛ, and which correspond to a very ancient landed-property mode of this milieu, the debtor, who is also the owner of the land, has available a means
[692] of interrupting automatically the right of the lessee. This is /265/ to deposit an "obole" /obolus/, tauqit, tamuzunt (1),

> 1. And moreover istiman and l^{c}arbûn. Evidently the idea of deposit itself has a very complex past and meaning. Still without any idea of systematic comparison, and, if one wishes, only for "curiosity," let us say that certain aspects of this tamuzunt of the Chleuhs /Shluh/ are not free from suggesting the formality of the aes "whose restitution brings about liberation of the land" (H. Lévy-Bruhl, Quelques problèmes de très ancien droit romain /Some problems of very ancient Roman law/, p. 144).

in the hands of some sort of auctoritas: today a common magistrate, formerly such-and-such a fqih, potable or "marabout." In the Bas /Lower/ Seksawa the process is even more direct. When it is a question of orchards, the obole will be deposited on the pile of olives in the very course of the gathering: this puts an end to the usufruct of the lessee. Rationalist reinterpretations have naturally assimilated this procedure to a settlement by "deposit," l^{c}arbûn. But this latter notion is itself complex. What one notices most concretely in the operation described here is that the gesture causes a break in the parties' respective situation concerning the field. As for the partimonial bond, the owner's legitimacy has never ceased. But it cut itself off from "legitimate occupation" (verb ɛmmer). The latter now reintegrates the initial right, an expression that we find again word for word in a writing from the eighteenth century. Henceforth, the lessee is usurping. More

/265 cont./

42 exactly, he henceforth assumes the personage of the usurper:
627 itrama, new verb of condition. His interim, one might say, has ended, and the wrong inflicted on the old order by the working of monetary abundance in certain hands. And, by a new significant trait, the point of departure of the restitution depends on the time when the tamuzunt can be inserted in the agricultural calendar (2):

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2. Similarly in old Kabyle law. Cf. L. Milliot, "Le qanoun d'Ighil n-Zekri /The qanoun of Ighil n-Zekri/," R. al., 1930, p. 247.

if it is after uktuber (Julian October), a new cereal campaign is permitted for the creditor. Other moments foreseen in what concerns arboriculture. One feels in all that instructive interferences between the life of nature, that of the group, and the overt mechanisms for the initiative of the individuals.

The dispossessions resulting either from a fraudulent prolongation of the rrahn or from assault are certainly numerous in the [578] Seksawa past. They have as their source inequities in the distribution of capital and power among the families. However that may be, they give rise to a violent ethical reaction. One will see shortly the consequences on the procedure itself. For the moment here is a curious form of it, improperly rigged out in the Mussulman dress of the istir^{c}a' or "act of reserves" (3).

3. Cf. the act translated and commented upon in J. Berque, "Documents anciens sur la coutume immobilière des Seksawa /Ancient documents on the landed-property customs of the Seksawa/," R. afr., 1948, p. 369.

Let us now listen to this act of the Idaw Geryun, dating from 1102 Heg.: 1691.

/323 cont./

691 have studied it above. It aims at re-establishing a distributive
695 integrity among riparian patrimonies, thus bringing into play an agrarian order on whose exact nature it has been necessary to reserve judgment.

423 Finally there are the conflicts of personal or landed-property
691 order. The procedure — it is indeed then a matter of procedure — is in two parts. The temporal authority, made cognizant first, brings about and records the agreement of the parties in the person of a muh'akim, most often a religious or scholarly individual. Who is this personage exactly?

Judgment or Arbitration?

623 The judiciary attributions in Chleuh /Shluh/ country are en-
634 trusted today to a collegial Tribunal. This is an extension of the
619 former competence of the jemâa, which customarily dealt with
692 only public law and the first phase of the judiciary instance properly speaking. But this extension doubtlessly is not exorbitant of a lively communitarian tradition, which is explained by the fact that, in contrast to the feudal forms observed on the plain, it impressed the reformer.

/324/ On the other hand, and on the historical plane, nothing permits affirming that in a number of epochs this extension of
● [629] competence was not produced spontaneously. The demarcation between the natures of the public law and of the private law is tenuous since most of the landed-property litigations arise from conflicts between groups or subdivisions of groups, which is also the theme of the public life of the canton. Some written traces of settlements of this sort authorize the hypothesis.

/The following two paragraphs are in small type in the original source./ An act of 982 Heg.: 1572, concerning the well-known gens of the a. D'alh'a and some persons from Tawanghast, mentions that one of those interested "produced, in the bosom of the jemâa, the act of guarantee of his mother's dower," kharraja ᶜala wasat'i'l-jamâᶜa. In this affair, obviously of private law,

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/footnote 1 continued/ Esquisses de droit coutumier berbère marocain /Outlines of Moroccan Berber customary law/, 1928, p. 185, n. 1. One finds in this work very exact, but incomplete and scattered notations. For example, on the alwâh', pp. 12, 142, 179, 181; on the instinct for patrimonial preservation among the Imazighen, pp. 35 sq.; on the true character of the rahn, pp. 196 sq.; the asghurt, p. 128. We are obliged to point out these coincidences with our own observations.

69 And it is no less so that such a judge, often far from the place of litigation, cut off from any possibility of investigation, and chosen even because of that no doubt, does not base his decision on objective data at all, indeed sometimes not even on hearing the two parties. The decision is often presented in fact in the form of a letter delivered to one of the litigants, and undoubtedly solely on the evidence of his statement. One might be surprised by the fact that a rural society entrusts its most precious interests to such a whimsical magistery. But, on the one hand, [627] the great majority of the conflicts are under the jurisdiction of prelaw and hence never come to procedural argument. And, on the other hand, the latter brings into play the not negligible factors of auctoritas. First, the weight of the person, of the writing, and of the reference to the Law. Then, the recourse to an external culture and ethic, felt as such, but to which one adheres at the appointed time and place, no more, and which one has intervene when it is necessary and when one wishes. In the second phase of this procedural splitting is read one of the attitudes of Chleuh /Shluh/ comportment with respect to Arabism and external civilization in general. We shall not engage here in a discussion of social psychology, which could lead far.

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613 182 114 121 695

/footnote 1 continued/ familial groups within the political society. The fact is that the oath often has this aspect. And that is so true that, the group growing larger into the taqbilt, for example, it would be other tariffs that then function in the cojuratio. But one is also struck by the traits of decline or retreat of a familial law thus profiled, or, what amounts to the same thing, by its unequal resistance to the legalistic Mussulman influences, from which, in short, the public law in the strict sense of the term has much better extricated itself. Of the two, it is the latter that has had the major influence, to the point, undoubtedly, of reacting upon the other.

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/371/ But on this same plane there are two recoils, unless they are original lacunae. First of all, let us repeat, this society with ancestors has never reflected in its hagiology what is reflected in other systems similarly organized. Another negative remark: in this penal law, so well attested to during the four centuries that one can study it, sanction is always of public order, without the notion of private vengeance or of responsibility of the ikhs ever cropping out in it. This is important. One of the best studies of Berbère /Berber/ law, that of Hanoteau and Letourneux, has given much space to completely contrary aspects. A sharp difference with the western Haut Atlas stands out from what these authors say proceeds from a law of the family as opposed to that of the village: all these juridico-sentimental motive forces that the reqba, the ʿanaya are, all this code of virile honor that occupies such an important place among the Kabyles (1).

627 681 [114] [171]

1. M. Daumas and M. Fabar, La grande Kabylie /Great Kabylia/, 1847, already contrast the vendetta to the dîâ, as signs of two radically different systems, p. 35. These

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/footnote 1 continued/ observations and those of C. Devaux, Les Kebailes du Djerdjera /The Kabyles of the Djurdjura/, 1859, have certainly inspired Hanoteau and Letourneux, La Kabylie et les coutumes kabyles /Kabylia and Kabyle customs/, 1873, t. III, pp. 77 sq.

The dîâ is not Kabyle. Now the milieu that we are studying is dominated by the pecuniary compensation, which comparativism has regarded for a long time as of a stage and character contrasting with those of a purely familial law. But what is there that is historical in these distinctions, and should we give them a value other than a didactic one?

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Certainly, the question of concrete relations that, in such-and-such a society, could be manifested between retaliation, compensation, composition fixed in advance, vengeance, punishment, and judgment is obscure. Perhaps in analogous milieus there were fundamentally opposed attitudes and options. In order to make a comparison with an ancient law, a comparison that has sometimes inspired adventurous theories, let us recall, but only as a landmark, that the old Germanic law /372/ simultaneously knew composition, an attenuated phase of familial vengeance, compatible moreover with an arbitral or judiciary organization, and proscription, which is of ritual character.

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In old Seksawa law the fine, which is a trait of highly "advanced" public law, and tariffed composition are known simultaneously. But as far as one can go back through the written sources, nothing but that is known; never retaliation. The contrary opinion has nevertheless been supported, but, it seems, without serious sources. We do not have the right to infer from pre-Islamic or Biblical Arab comparisons the existence of a stage in which personal vengeance could have legally been exercised here. One can, certainly, ask whether proscription after the crime is not also indeed a ritual evasion, favored by the institution of places of asylum, such as Z'init', and in the course of which intercessions, either familial or religious (intervention

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627 of the "marabouts"), are solicited. The term of azwag signifies
681 both the "banished" and the "suppliant," double aspect, passive and active, of the notion.

682 /The following paragraph is in small type in the original source./ Some twenty years ago one of our officers wrote: "Today, when a murder has been committed, the tribe orders some of its members to go to burn the gutters and other pieces of wood that project from the dwelling of the murderer. This act signifies to the guilty one that he must immediately leave the territory of the tribe. It is later announced: "There is no God but Allah, and Moh'ammed is his Prophet. Hear, O people of the tribe, so-and-so must leave as azwag, and if he is seen among us he must not be pardoned." "In Seksawa, pecuniary reparation is accomplished during the time of exile, whereas elsewhere it is paid on the day of return. This day the murderer, accompanied by the jemâa, presents himself to the parents of the victim, must be the first to greet them deferentially and turn out of their way, while lowering his head."

This notation undoubtedly is in large part the interpretations of an informant. But even as such, how instructive it is that the "supplication" aspect and magical procedures of exclusion come to complicate an operation of public law! We shall not resolve this disparity; it is not the only one that the milieu manifests.

However that may be, the dîâ then paid to the parents was 100 reals and a bovine. In addition, the jemâa collected the provisions for a meal: one sheep, semolina, salted butter, sugar. Let us recognize, moreover, that the old acts almost never anticipated a case of murder, doubtlessly out of fear of bad augury. They were satisfied to decree the punishment incurred by the gesture, that /373/ is, by the intention: two degrees, as will be seen, depending on whether the weapon was brandished or utilized. This is a relatively refined technique. What has left traces, outside of codifications, a veritable literary genre and so abundant that it is surprising that a theory of retaliation has been able to exist in the modern exegesis, are veritable legal papers.

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*634 Nefis, we have been able to study the interplay of the leffs at the 616 time when this part of the mountains had still preserved its independent institutions (1).

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1. Cf. Hespéris, 1927, first quarter, "L'Aghbar et les hautes vallées du Grand-Atlas /The Aghbar and the high valleys of the Great Atlas/."

The interplay of the alliances dominated all political life in this high-mountain region. Was a canton threatened by its neighbors after a dispute or a murder that the "moqaddems," presidents of the small assemblies of notables, would not or could not settle according to custom? Each one then appealed to its leff by making the "tamatart," alarm signal by gunshots spaced at known intervals. In a few hours the neighboring republics were assembling their warriors, who were coming to "fill" the territory of their "brothers." Most often the moqaddems of the fractions outside the discord came to hear and to settle the affair; otherwise war was ignited on all the frontiers of the little states, combats more noisy than deadly, in which each one waited, hidden behind a rock, for his enemy to show his head, and did not go back into his house until he had exhausted, without result, his supply of powder and bullets.

616 Sometimes, too, the leffs were a means of internal pacifica-
• 627 tion. When private wars used to break out in the villages and the moqaddems were powerless to impose their authority, they had the alarm given on the hills that dominated the friendly cantons; one then saw in the twinkling of an eye 50 armed men on foot, coming from nearby valleys, descend the steep slopes, occupy the houses of the fomenters of disorder, and restore peace by force.

*634 The cantons of the same leff owed one another aid and assist-
616 ance in all circumstances, but those were general obligations
571 whose cult it was important to maintain by renewing through in-
[574] dividual alliances cordial relations with the neighboring republics. The festivals of hospitality, the "tinoubga," whose importance we

/219 cont./

623 and intervenes to regulate the use and repair of the séguias; fi-
185 nally, it often designates minor functionaries remunerated by the
241 /220/ community for the systematic regulation of irrigation:
245 these are the ones that are called by the name of "amazzal," or
624 again the "little inflas," or the "inflas of the water."

Sometimes it is the council of the "taqbilt" itself that inter-
623 venes in order to apply to those who act contrary to the crop
627 police the fines called "azzain n igran," fines of the fields. But
681 most often each "jema^{c}t" of a "mouda^{c}" fixes these penalties as
625 it likes and collects the fines for its profit without swerving from a traditional tariff known to all. Moreover, it is in this form of
671 the "azzain n igran" that the customary law at the heart of the
177 "mouda^{c}" persists longest, even when the progress of the penetra-
632 tion of the Makhzen /makhzan/ has led to its disappearance in the country.

623 Thus, for reasons that are related to the conditions of mate-
184 rial life, the assembly of the "mouda^{c}" often assumes great local importance. Even in regions like that of the Haha, where the population is dispersed over the whole territory in isolated houses, the use of forest pastures, the execution of tasks in common by mutual assistance contribute toward maintaining the tradition of
623 the "jema^{c}t" councils. Meetings are held when necessary in the
346 Friday mosque, which is sequestered, like all the houses in this
361 country, on a solitary hill (1).

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1. It may happen that the organization of the "mouda^{c}" develops on the model of that of the "taqbilt" and that it is then directed by a moqaddem. This is the case in several small tribes of the Seksawa (the Ait Haddiyous in particular). This event occurs in a region where the "taqbilt," divided into three thirds, are stronger than elsewhere; one grasps here from life one of the phases of the appearance of new autonomous fractions being formed by simple growth of the "mouda^{c}." One also sees from

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

2. *Alliances and Agencies for Negotiation and Arbitration*

The traditional social units of Moroccan rural society, involving increasing segmentation as one moves from the confederation or the tribe to the extended family, do not easily lend themselves to the maintenance of peace and harmony. In the pre-Protectorate period rivalries between different blood groups, strong regionalism, and the attitude that insults to "honor" were best avenged by the vendetta, all tended to override the sense of unity derived from geographical proximity, the use of common markets, and brotherhood in Islam. This tendency was rendered all the more critical in the Berber areas by this ethnic group's traditional antipathy towards any form of centralized political authority.

In the Berber areas these centrifugal forces were traditionally countered and controlled by an elaborate system of religiously inviolable alliances combined with an equally elaborate system of "checks and balances" and agencies for the negotiation, mediation, and arbitration of disputes. These compensating factors, although somewhat slow in operation and therefore often ineffective in preventing local social disturbance, did generally contain the dispute within a small area and thus limit its consequences. Similar institutions were also present in the Arabic-speaking areas of the *Bled el Makhzen*, although some suffered suppression at the hands of the central authority.

a. *Shame Compulsions and Covenants*

In the absence of a central authority with strong police powers, interpersonal and intergroup relationships and alliances in both pre-Protectorate Berber and Arabic-speaking society were rendered binding and inviolable through the use of religious shame compulsion (*'ar*) and covenant (*'ahd*). In Morocco the word *'ar* implies the transference of a conditional curse for the purpose of compelling somebody to grant a request, the power of the conditional curse deriving from the mysterious power inherent in the curse (which may sometimes be reinforced by the invocation of another supernatural power or object). Thus, if a person says to another, *Ha l-'ar alik*, "Here is *'ar* upon you", it implies that if

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

help asked for is refused. An individual may also take an unmarried daughter into another man's house and invoke his assistance, saying that this is *'ar* upon him. The girl is then left there until the owner of the house and his friends have satisfied the request (Bruno and Bousquet, 1942, pp. 361-362; Westermarck, 1926, Vol. 1, pp. 520-530, 560-561).

The use of *'ar*, however, is not restricted to persons engaged in civil or criminal cases, but may also be employed by public bodies, or their representatives against such individuals. This is illustrated by usage among the Ait Youssi (234-236), Westermarck reporting that in the event that a murderer and his male relatives in the patrilineal line have fled, unrelated elders in the village attempt to postpone the blood-feud by casting *'ar* upon the victim's family – either by sacrificing a sheep at the grave, or descending into the open grave itself while scribes give recitations on the behalf of the still unburied deceased. Through this, and the intervention of still other people, the relatives of the deceased eventually agree upon a period of truce; before the expiration of this truce the homicide or his relatives have a *sherif* or other influential men again cast *'ar* upon the family until such a time as they are willing to accept blood-money. *'Ar* may also be cast by the inhabitants of a defeated village upon the members of the victorious group for the purpose of ending the conflict – individuals of a third village or holy men acting as the mediators (Coon, 1931, pp. 105, 162-163; Westermarck, 1926, Vol. 1, pp. 530-532).

An outstanding example of the use of shame compulsion to secure protection is provided by the *ksour* inhabitants of the south, these placing themselves under the protection of a neighboring nomadic tribe by the ceremony known in Arabic as *debiha* and in Tashilhait as *tigarsi*. Another example would be the practice on the part of Jews in Berber areas of using *'ar* to secure a Moslem protector or patron (La Chapelle, 1929, p. 37).

The third type of alliance – known among the Shluh by the term *ameqqon* ("relationship, alliance"), among the Beraber as *tagmat* ("brotherhood"), and among the Zenata as *taimat* ("brotherhood") is concluded between single individuals or families who desire to establish a mutually profitable relationship legally equivalent to that